

## COMMONWEALTH OF KENTUCKY

## OLDHAM COUNTY

## ORDINANCE NO. KOC-94-800-846

AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT, PERTAINING TO PUBLIC HEALTH, SAFETY, AND WELFARE; REGULATING COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE; AND PROVIDING A PENALTY FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE.

\* \* \* \* \*

WHEREAS, pursuant to Kentucky Revised Statutes 224 and 109 and related administrative regulations, Oldham County, including its cities, has been designated as a solid waste management area, based upon a Solid Waste Management Plan approved by the Natural Resources and Environmental Protection Cabinet, hereinafter referred to as "the Cabinet," of the Commonwealth of Kentucky. In addition, Oldham County is acting under powers outlined in KRS 67.083 (3)(o) which provides the authority to manage solid waste by ordinance.

NOW, THEREFORE, be it ordained by the Fiscal Court, Oldham County, Kentucky, that this ordinance shall be known as the Solid Waste Management Ordinance. The Oldham County Judge/Executive and Fiscal Court shall delegate responsibility for the administrative management of this ordinance to the Solid Waste Coordinator.

## SECTION 1: DEFINITIONS

For the purpose of this ordinance, the following terms shall be deemed to have the meaning below:

**Bulky Waste:** Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles.

**Cabinet:** The Natural Resources and Environmental Protection Cabinet.

**Collection:** Removal of solid waste from the designated pick-up location to the transfer vehicle. Acceptable collection practices shall consist of the following: (1) door-to-door household collection and/or (2) direct access to a staffed convenience center or transfer facility.

**Convenience Center:** A facility that is staffed during operating hours for the collection and subsequent transportation of municipal solid wastes.

**Demolition and Construction Waste:** Materials resulting from the construction or destruction of residential, industrial or commercial structures.

**Disposal:** The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

**Hazardous Waste:** Any waste or combination of wastes which are determined by the Cabinet because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase

in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

KAR: Kentucky Administrative Regulations.

KRS: Kentucky Revised Statutes.

Occupant: Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as an owner or as a tenant.

Open Dump: Any facility or site for the disposal of solid waste which does not have a valid permit issued by the Cabinet or does not meet the environmental performance standards established under regulations promulgated by the Cabinet.

Person: An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the State of Kentucky, or any interstate body.

Residential Solid Waste: Solid waste resulting from the maintenance of dwelling units.

Solid Waste: Any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden), agriculture operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.868, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

Solid Waste Coordinator: The Coordinator of the Solid Waste Management Program of the County as chosen by the County Judge Executive and Fiscal Court.

Solid Waste Management: The administration of solid waste activities: Collection, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a Cabinet approved county or multicounty solid waste management plan.

Solid Waste Management Area or "Area": Any geographical area established or designated by the Cabinet in accordance with the provisions of Senate Bill 2.

Solid Waste Management Plan: The document submitted by waste management districts, counties, or any combination thereof as required under KRS 224.887 and approved by the Cabinet.

Transfer Facility: Any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation.

Transportation: Any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto.

Universal Collection: A municipal solid waste collection system which is established by ordinance and approved by the Cabinet and requires access for each household or solid waste generator in a county.

## SECTION 2: COLLECTION OF SOLID WASTE

### Section 2.1: County Responsibility Defined

The County shall provide coordination for the collection of all residential solid waste in the county. The type of collection system provided shall conform with Section 2.4 herein. Coordination of collection shall include, but not be limited to, the permitting of persons to provide solid waste collection in a manner that provides access to a collection service to all households and solid waste generators in the county.

### Section 2.2: Universal Collection

The County shall provide that all households and solid waste generators in the county shall have access to a solid waste collection system as established under this ordinance.

### Section 2.3: Collector's Responsibility Defined

Solid waste collectors operating within the county shall be responsible for the collection of solid waste from collection points to a transportation vehicle. Spillage or blowing litter, caused as a result of the duties of the solid waste collector, shall be collected and placed in the transportation vehicle by the collector.

### Section 2.4: Acceptable Collection Practices

Collection practices which are deemed acceptable by the County are as follows:

- a. Door-to-door household collection. Collection service may be provided by the County, a city, or by a private sector collector operating under a contract, franchise or permit with the County, a city or solid waste generator.
- b. Direct access to a staffed convenience center or transfer facility within the county. Residents may transport their waste directly to Cabinet approved staffed convenience centers or transfer facilities within the boundaries of the county which meet the environmental performance standards of 401 KAR 49:060.

## SECTION 3: TRANSPORTATION OF SOLID WASTE

### Section 3.1: Collection Vehicle Standards

All transportation vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed. No



solid waste shall be transported in the loading hoppers. Vehicles shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.

#### SECTION 4: DISPOSAL OF SOLID WASTE

##### Section 4.1: Open Burning

Open burning of hazardous waste or bulky waste is prohibited.

##### Section 4.2: Open Dumping

Open dumping of solid waste, including bulky waste, on all lands (i.e., roadsides, hollows, rivers, streams, lakes, etc.) by any person is prohibited by KRS 224.835 and this ordinance.

##### Section 4.3: Disposal Sites

All solid waste, including bulky waste, shall be disposed of within a disposal facility having a valid permit issued by the Cabinet in compliance with KRS 224.830, 224.835 and 224.855 and this ordinance.

##### Section 4.4: Hazardous Waste

As defined within this ordinance, hazardous waste will require special handling and shall be disposed of only in a manner authorized by state and/or federal regulations.

#### SECTION 5: PERMITS

##### Section 5.1: Permit Requirements

No person shall engage in the business of collection, transportation or processing of residential solid waste within the county without a permit secured from the Solid Waste Coordinator. In the event any one person engages in the collection, transportation and processing of residential solid waste, or any combination thereof, there shall be required of said person only one permit hereunder.

##### Section 5.2: Permit Application

All persons involved in the business of collecting, transporting or processing of residential solid waste within Oldham County shall file an annual permitting application with the Solid Waste Coordinator. Such reports shall:

1. Be due on February 1 of each year.
2. Be in conformance with the format and requirements set by the Solid Waste Coordinator.
3. Each applicant for any such permit shall state in his application the following:
  - a. the nature of the permit desired, as to collect, process or transport solid waste or any combination thereof;
  - b. name and address of the applicant, and whether the applicant is a sole proprietorship, corporation, or partnership with disclosure of the ownership interests;

- c. the number of employees and solid waste collection vehicles to be operated thereunder;
- d. rates the applicant plans to charge customers;
- e. location or locations of solid waste processing or disposal facilities to be used;
- f. service routes and boundaries of collection area;
- g. number of households and other customers served; and
- h. other such information as required by the Solid Waste Coordinator.

#### Section 5.3: Permit Issuance

If the application shows that the applicant will collect, transport and process solid waste without hazard to the public health or damage to the environment and in conformity with the laws of the Commonwealth of Kentucky and this ordinance, the Solid Waste Coordinator may issue the permit authorized by the ordinance. The Solid Waste Coordinator shall have the authority to limit the number of permits issued to preserve the health, comfort, safety and welfare of the residents, to promote energy conservation, and to provide for collection and disposal consistent with good solid waste management practices only after public notice and with the approval of Fiscal Court. The permit shall be issued for a period of one (1) year, and each applicant shall pay a fee of \$ 50.00. If modifications can be made to the application regarding service, equipment or mode of operation as to bring the application within the intent of this ordinance, the Solid Waste Coordinator shall notify the applicant in writing setting forth the modification to be made and the time in which it shall be done.

#### Section 5.4: Application Denial

If the applicant does not make the modification pursuant to the notice in Section 5.3 within the time limit specified therein or if the application does not clearly show that the collection, processing, or transportation of solid waste will not create a public health hazard or be without harmful effects to the community or to the environment, the application shall be denied and the applicant notified by the Solid Waste Coordinator, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply after the rejection of his application provided that all aspects of the reapplication comply with the provisions of this ordinance. Nothing in this section shall prevent the denial of a permit should the total number of annual permits have already been issued.

#### Section 5.5: Inspections

In order to insure compliance with the laws of the Commonwealth of Kentucky, this ordinance, and the rules and regulations authorized herein, the Solid Waste Coordinator is authorized to inspect all phases of solid waste management within the county. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law. In all instances where such inspections reveal violation of this ordinance, the Solid Waste Coordinator shall issue notice for each such violation stating therein the violation or violations found, the corrective measure to be taken, together with the time in which such corrections shall be made.

#### Section 5.6: Permit Suspension

In all cases, when the corrective measures have not been taken within the time specified, the Solid Waste Coordinator shall suspend or revoke the permit or permits involved in the violations.

However, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not exceeding the original time period may be given.

Section 5.7: Injunctive Relief

In the event a permit is revoked and the person continues to operate, the Solid Waste Coordinator may request the action of a court of law to enjoin the acts and to enforce compliance with this ordinance or any rule or regulation promulgated thereunder.

Section 5.8: Appeal

Any person who feels aggrieved by any notice of violation or order issued pursuant thereto by the Solid Waste Coordinator may within 30 days of the act for which redress is sought appeal directly to the Oldham County Fiscal Court in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

Section 5.9: Permit Display

All solid waste collectors operating under any permit required by this ordinance shall maintain a copy of said permit in each collection vehicle. Any permit for processing or disposal facilities shall be prominently displayed at the facility.

**SECTION 6: DEBRIS LAND FILLING**

Section 6.1: Permit Requirements

No person shall dispose of demolition and construction waste, concrete, asphalt, trees, tires, stumps, dirt or similar materials to be used as fill on any off-site property within the county without a permit from the Solid Waste Coordinator. Fill operations exempt from this requirement include (1) filling directly associated with agricultural practices, and (2) filling associated with the preparation of a site for purposes of new construction, provided that the fill consist of dirt and rock materials only.

Section 6.2: Permit Application

A person seeking such a permit shall file an application with the Solid Waste Coordinator setting forth such information as may be requested thereon, including but not limited to the following:

- a. Name address of the person seeking the permit.
- b. Exact location and address of the property proposed to be filled, and access to public streets.
- c. Name and address of the owner of said property, and permission from the owner to conduct the fill operation if different from the applicant.
- d. Statement of the exact nature and source of the materials to be used as fill on the subject property.
- e. Letters, applications or certificates of approval of the fill operation's plans by the Cabinet and any other applicable agency indicating prior review.
- f. A site plan showing the following:
  1. Present and proposed use of land, the arrangement, fully dimensioned, of all existing and proposed buildings, structures, roads, drives, parking areas, surface



drainage, landscaping, fencing, and all other features and facilities to be installed or used in connection with the proposed operation.

2. Existing and proposed contours of not less than 2 foot intervals as follows:
    - (a) The present surface of the site and the surrounding properties within 50 feet from its boundaries by the use of dashed contours.
    - (b) The ultimate elevations of the area to be filled by the use of dot and dash contours.
    - (c) The ultimate finished surface of the site after all filling operations are completed by the use of solid line contours.
  3. Locations where filling operations will commence and the procedural sequence of operations.
  4. Methods to be employed for surface drainage during and after completion of operations.
  5. The estimated volumes of materials to be filled for each location on the site where operations are to take place.
  6. Names and addresses of all adjoining property owners, name and address of person who prepared the site plan, scale, northpoint, and relationship of site to existing public streets.
- g. Statement of procedures and safeguards the applicant proposes to use to insure that adjoining properties and county residents will not be adversely affected by the proposed fill activity, including closure procedures the applicant proposes to use when the fill is complete.
- h. Statement as to the length of time the applicant proposes to use the property as a fill site.

#### Section 6.3: Permit Issuance

If the application complies with the laws of the Commonwealth of Kentucky and this ordinance, the Solid Waste Coordinator shall issue the permit authorized by this ordinance. The applicant shall pay a fee of \$100.00 per acre of fill or portion thereof for the permit. Any application that fails to comply with state and local regulations shall be denied and the applicant notified in writing by the Solid Waste Coordinator stating the reasons for the denial.

#### Section 6.4: Minimum Performance Standards

At a minimum the following performance standards shall be required:

1. No filling shall be conducted within 10 feet of any adjoining private property line. For fill sites larger than one acre, no filling shall occur within 250 feet of any principal structure located on adjoining property existing at the time of the application.
2. Side slopes shall conform to state regulations and be mowable, but in no event shall exceed one foot vertical to three feet horizontal.
3. Materials shall be spread and thoroughly compacted as they are deposited.
4. Filling operations may begin immediately upon issuance of the permit. All areas shall be refilled to finished grades as

shown on the topographic map filed with the application within a period not to exceed ten years after commencement of operations. A completion date of less than five years may be required by the Solid Waste Coordinator for sites of one acre or less in size or sites located in residential areas.

5. All deliveries of fill materials to the site shall be done during daylight hours, and in residential areas on weekdays only, unless otherwise necessitated by extraordinary circumstances and only when granted prior approval by the Solid Waste Coordinator.
6. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, stream or creek, or abrogate the riparian rights of any other party to a stream or drain.
7. The materials to be used as fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells.
8. A layer of clean earth at least two feet thick shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
9. The finished surface of the site shall bear a proper relationship to surrounding terrain. Sites leveled for development purposes are allowable when integrated into the surrounding natural contours.
10. The installation of roads, parking areas, buildings, structures, and operation facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
11. All filling operations and final approval shall be in strict conformity with the regulations of the Cabinet and other applicable agencies.
12. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust or odor to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Dusty conditions shall be corrected by sprinkling with water or other method meeting current state standards. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
13. No fill area of one acre or less may be used for salvage operations of any kind. Only the operator of the site shall be allowed to salvage approvable waste materials from larger sites. All unacceptable fill materials shall be removed from the premises immediately after delivery.
14. No building or structure shall be erected in connection with the operation in required yards or closer than 30 feet to any property line.
15. A specific plan for vehicle cleaning facilities to prevent the tracking of mud, dirt and other debris onto any public street shall be provided and maintained.
16. No materials defined as hazardous by this ordinance or any state or federal agency will be allowed as fill.



Section 6.5: Inspections

Any fill operation, whether permitted or not, may be inspected by the Solid Waste Coordinator in accordance with Section 5.6 herein.

Section 6.6: Permit Suspension

Any permit issued under this section may be suspended in accordance with Section 5.6 herein. The revocation of a disposal permit issued by the Cabinet shall be considered just cause for the suspension or revocation of any county permit issued for the same site.

Section 6.7: Injunctive Relief

In the event a permit issued under this section is revoked and the person continues to operate, the Solid Waste Coordinator may request the action of a court of law to enjoin the acts and to enforce compliance with this ordinance or any rule or regulation promulgated thereunder.

Section 6.8: Appeal

Appeal of any action taken by the Solid Waste Coordinator under this section shall be in accordance with Section 5.8 herein.

Section 6.9: Permit Display

Any person operating under a permit required by this section shall prominently display a copy of said permit at the fill site.

Section 6.10: Guarantee

To insure the strict compliance with all of the above conditions and requirements, the applicant shall deposit with the County cash or a certified check, or execute a bond with a corporate surety authorized to do a surety business in Kentucky. The amount of cash, certified check or bond shall be fixed at the rate of \$2,000.00 per acre of fill or portion thereof.

**SECTION 7: PENALTIES**

Section 7.1: Penalties

Any person violating any provisions of this ordinance or any lawful rules or regulations promulgated pursuant thereto, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than five-hundred dollars (\$500), provided that each day's violation thereof shall be a separate offense for the purpose hereof. Violators of this ordinance may be issued a citation by any authorized enforcement officer.

Section 7.2: Cost Recovery

When the County must clean up and remove an open dump or other disposal site to insure protection of the public health and safety and when the responsible party can be identified, the Solid Waste Coordinator shall require these persons to reimburse the County for the actual costs incurred. Recoverable costs include but are not limited to costs for site assessment and evaluation, labor, equipment, disposal, and legal fees. Should any other means of collection prove ineffective, the County may seek such reimbursement of funds ninety (90) days following the completion of the cleanup. Such cost recovery should not apply to property owners who are the victim of illegal dumping of solid waste without their knowledge or beyond their reasonable control.

SECTION 8: SAVINGS CLAUSE

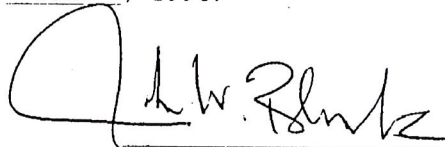
Nothing in this ordinance shall be deemed to affect, modify, amend, or repeal any provision of any ordinance administered by the Oldham County Health Department or other department, board, commission, or agency of Oldham County.

SECTION 9: SEVERABILITY CLAUSE

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

This ordinance shall become effective upon publication.

Dated this 21st day of June, 1994.



John W. Black  
Oldham County Judge/Executive

ATTEST:

*Martha R. Davis, By Mary J. Black, D.C.*  
Martha R. Davis  
Oldham County Fiscal Court Clerk